

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BRIAN JOSHUA BAKER,)	
)	
Plaintiff,)	
)	
v.)	1:14CV878
)	
DURHAM S.E.T., CITY OF DURHAM,)	
and DURHAM POLICE DEPARTMENT,)	
)	
Defendants.)	

ORDER

This matter is before this court for review of the Memorandum Opinion and Recommendation filed on May 5, 2016, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 46.) In the Recommendation, the Magistrate Judge recommends that Plaintiff's Motion for Entry of Default Judgment (Doc. 42) be denied and that Defendants' Motion to Set Aside Entry of Default and Opposition to Plaintiff's Motion for Entry of Default Judgment (Doc. 43) be granted. The Recommendation was served on the parties to this action on May 5, 2016 (Doc. 47). Plaintiff timely filed objections (Doc. 48) to the Recommendation.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or

modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation (Doc. 46) is **ADOPTED**. **IT IS FURTHER ORDERED** that Plaintiff's Motion for Entry of Default Judgment (Doc. 42) is **DENIED**, that Defendants' Motion to Set Aside Entry of Default and Opposition to Plaintiff's Motion for Entry of Default Judgment (Doc. 43) is **GRANTED**, and that the Partial Entry of Default as to Defendants Durham S.E.T., City of Durham, and Durham Police Department (Doc. 41) is hereby **SET ASIDE**.¹

¹ Following this court's ruling, Plaintiff is advised that he will need to re-serve the relevant parties properly within 90 days of the issuance of this Order if he seeks for this court to exercise jurisdiction over the dispute in the future. Plaintiff is specifically referred to the analysis in the Magistrate Judge's Recommendation (Doc. 46) as to the appropriate means for serving the relevant parties, namely in compliance with Federal Rule of Civil Procedure 4(j)(2) and North Carolina Rule of Civil Procedure 4(j)(5)-(7). (See Doc. 46 at 3-8; see also Doc. 44 at 5-7, 10-11 (Defendants' brief describing how proper service should have been conducted).)

This the 11th day of July, 2016.

William L. Osteen, Jr.

United States District Judge